

Appl. No. 09/871,608
Amdt. Dated September 15, 2005
Reply to Office Action of June 15, 2005

REMARKS

Claims 11-19 are currently pending. Claims 11, 12, 18 and 19 are herein amended. The applicant thanks the Office for its careful consideration and its notice of allowable subject matter in claim 14.

Specification

The abstract of the disclosure is objected to because it should be on a separated page. The Applicant makes a correction of the abstract section to rearrange the abstract section on a separated page.

Claim Objections

Claim 18 is objected to because of the following information: in line 2, "stands" should be "strands". The Applicant herein amends claim 18 to correct this spelling mistake.

Claims Rejections - 35 USC §112 Second Paragraph

The Office rejected Claims 18 and 19 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. A §112 second paragraph rejection has two separate requirements, indefiniteness and failing to claim what applicant regards as the invention. In regard claims 18 and 19, the limitation "wherein the filaments are wound at a maximum pitch corresponding to the circumference of a drum onto which the strands are to be coiled" was considered indefinite because it does not further limit the structural features of the tension member. With respect to indefiniteness, the "essential inquiry pertaining to this requirement is whether the claims set out and circumscribe a particular subject matter with a reasonable degree

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of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of (1) the content of the particular disclosure, (2) the teachings of the prior art, and (3) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made." (MPEP §2173.02).

The Applicant submits that the language of claims 18 and 19 is sufficiently definite by one possessing the ordinary level of skill in the pertinent art, but the Applicant also amends claims 18 and 19 to further clarify the claimed invention. In claims 18 and 19, the limitation "a maximum pitch corresponding to the circumference of a drum" is herein amended to "a pitch equal to the circumference of a drum", and these amendments are fully supported by paragraphs [0028] and [0039] in the specification. Reconsideration of the rejection of claims 18 and 19 is therefore respectfully requested.

Claims Rejections - 35 USC §102(b)

The Office rejected claims 11-13 and 15-19 under 35 U.S.C. 102(b) as being anticipated by Hughes et al. (US 4,197,695). A rejection based on anticipation requires that a single reference teach every element of the claim (MPEP § 2131). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Or stated in another way, a "claim is anticipated only if each and every element as set forth in the claim is found, . . . described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The applicant respectfully disagrees with the Office's allegation.

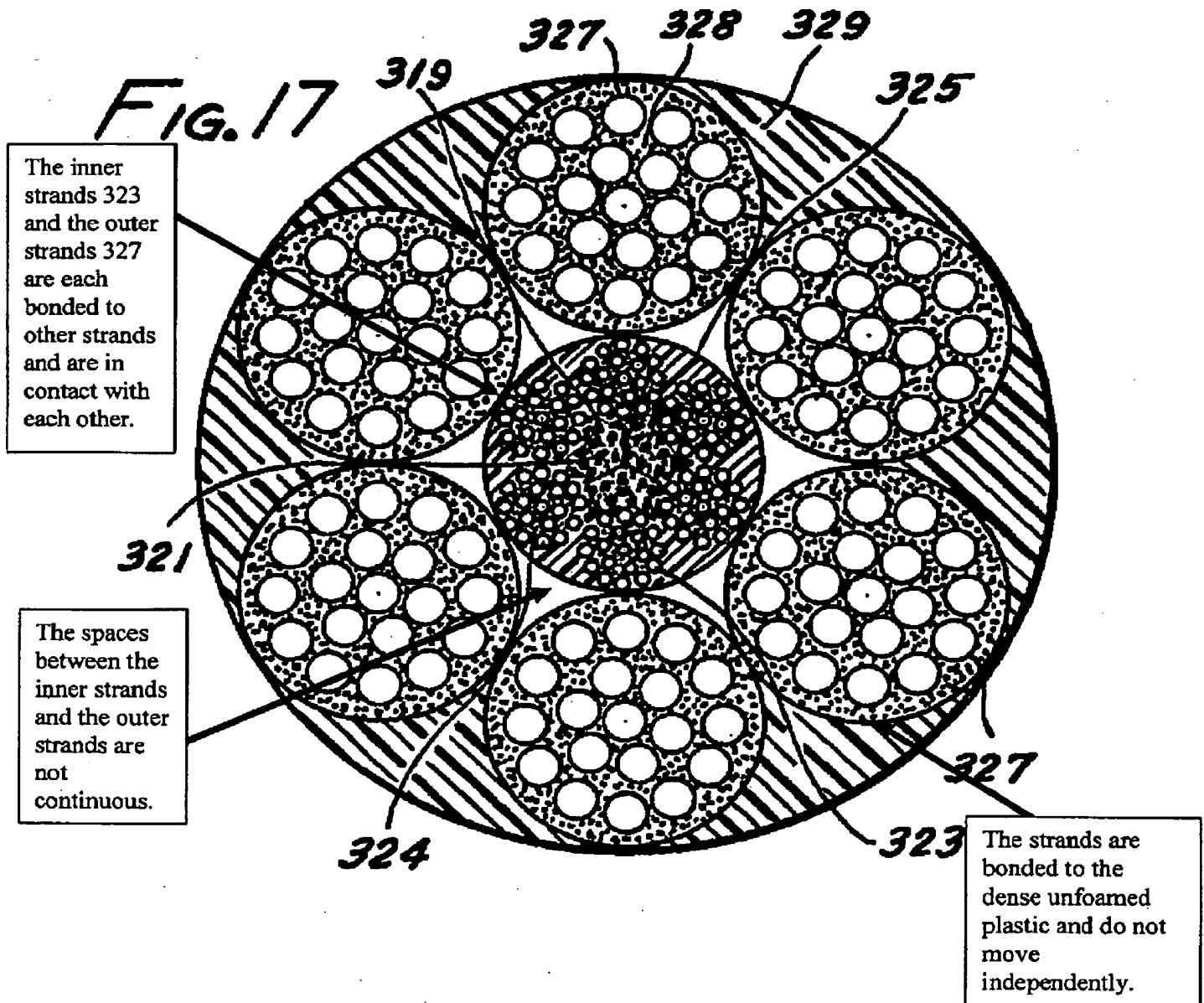
Regarding claim 11, the '695 reference, in contrast to the claimed invention, is a wire rope comprising a plurality of wire cables each of which is embedded in a foaming plastic described in col. 12, ll. 29-32. In one of the embodiments of the '695 reference, illustrated in Figure 13 B, and reference number 319 in Figure 17, described in Col. 17, ll. 8-20, also contains a single core of "wire embedded with lubricant". Lubricants, as used in the '695 reference, refer

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to heavy lubricant which are "soon lost" col. 1, ll. 15-16. From such a discussion, it is presumed that the lubricant discussed is a viscous liquid and not a solid sheath, especially as a discussion of solid encapsulations is juxtaposed with that of lubricants at col. 1, ll. 19-22. Notably, the claimed invention recites a "strand sheath of a material having a low friction coefficient, permitting the strands to move longitudinally in relation to one another and independently of each other." It does not recite a lubricant, and a lubricant cannot supply the place of a "sheath".

The applicant respectfully draws the Office's attention to the following figure from the '695 reference.

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The applicant notes that the lubricant is contained within the wire core 319, around which are disposed strands 324 treated with foamable plastic which in turn are coated in dense unfoamable plastic 325. The resulting structure has a lubricated core surrounded by a wire strands disposed in a sealed wire rope. As all lubricant is contained within the core 319, See Col 17, ll. 16-20, there is no lubricant within the alleged cavities between strands 328 and the inner

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strands 324. The applicant further notes that such wire strands 209, as illustrated in Figure 7 and Column 12, Lines 34-56, are coated in "foamable plastic material". "[F]oamable Plastic Material" is not a lubricant, as the term is used in the specification of the '695 reference. Such material is specifically noted to "adhere to individual wires" Col. 1, l. 31. The strands 324, therefore, are not permitted to "move longitudinally in relation to one another and independently of each other" as in independent claim 11, but are connected by the dense unfoamable plastic 325 filling the valleys between the strands and are embedded in that plastic.

In further distinction from the claimed invention, the '695 reference, fails to disclose spacing elements disposed between a protective sheath and the strands 324, 327. If as alleged by the Office, the protective sheath is provided by the combination of the outer strands 327 and the unfoamable plastic 329 disposed, no spacing elements are provided between the protective sheath and the strands. Furthermore, the inner strands 324 and outer strands 327 are illustrated in Figure 17 as being in contact, and not spaced within a "continuous cavity adapted to receive a plurality of strands, said cavity having a cross section corresponding to, at least, approximately the total cross section of all the strands."

In summary, the '695 reference fails to disclose independent movement of strands relative to each other, spacing elements disposed between the protective sheath and the strands, or a continuous cavity for receiving a plurality of strands. As claim 11 is patentably distinct from the cited reference, the applicant respectfully requests that this rejection be withdrawn, at least for those reasons set forth above.

Regarding claim 12, claim 12 is dependant from claim 11. As claim 11 is patentably distinct from the cited reference, the applicant respectfully requests that this rejection be withdrawn, at least for those reasons set forth above.

Regarding claims 13, 15-17, no spacing elements are disposed between a protective sheath and the strands, as no such spacing element is present, there can be no recess in it, nor can

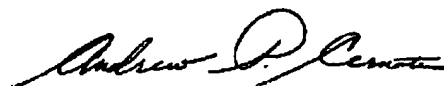
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it have buoyancy. Likewise, the Office alleges the spacing element to be the dense unfoamable plastic. While buoyancy may be presumed in foam, dense unfoamable plastic cannot be said to be inherently buoyant. Furthermore, claims 13, 15-17 are dependant from claim 11. As claim 11 is patentably distinct from the cited reference, the applicant respectfully requests that this rejection be withdrawn, at least for those reasons set forth above

The Applicant submits that, at least for those reasons stated above, the amended claims are patentably distinct over the '695 reference, and allowance of the amended claims is therefore respectfully requested.

Applicant believes the above amendments and remarks to be fully responsive to the Office Action, thereby placing this application in condition for allowance. No new matter is added. Applicant requests speedy reconsideration, and further requests that Examiner contact its attorney by telephone, facsimile, or email for quickest resolution, if there are any remaining issues.

Respectfully submitted,



Vernon C. Maine, Reg. No. 37,389
Scott J. Asmus, Reg. No. 42,269
Andrew P. Cernota, Reg. No. 52,711
Attorneys/Agents for Applicant

Cus. No. 24222
Maine & Asmus
PO Box 3445
Nashua, NH 03061-3445
Tel. No. (603) 886-6100, Fax. No. (603) 886-4796
Patents@maineandasmus.com